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EXAMINER

PHAM, MICHAEL

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2167

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,097

Applicant(s)

WOOKEY, MICHAEL J.

Examiner

Michael D. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

1. Claims 1 - 16 have been examined.
2. Claims 1 - 16 are pending.
3. Claims 1 - 16 are rejected as detailed below.

Drawings

1. Prior objections to drawings because they failed to show element 612 as described in the specifications is respectfully withdrawn.
2. Prior objections to drawings because they included reference character 710 not mentioned in the specifications is respectfully withdrawn.

Specification

1. Prior objection on [0123] for the first appearance of 622 was to have meant to be 620 is respectfully withdrawn.
2. Prior objection for elements 614 and 616 is respectfully withdrawn.
3. Prior objection for in the specifications element 720 is the validating step and in figure 7, element 716 is the validating step is respectfully withdrawn

Claim Rejections - 35 USC § 101

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1. Prior rejections to claims 8-14 for not limiting the claim to embodiments, which fall within a statutory category is withdrawn.

2. Prior rejection to claims 1-16 for not producing a tangible result is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent

Application publication 2002/0095399 by Devine et. al. (hereafter Devine).

Claim 1:

A method in a data processing system having a program, the method comprising the steps

of:

asynchronously receiving a data about a customer [0451, asynchronous service added when the subscriber is next online. Communicates using messages that include a variety of types of data.];

providing a datatype having a metadata that describes the data and a reference to the data, the data being maintained separately from the datatype [0018, subscription (i.e. datatype) is granted based on criteria (i.e. metadata that describes data and reference to the data). If subscription meets criteria, then service (i.e. data) that is stored by the publisher is granted.];

registering the datatype prior to the datatype's usage [Abstract, states that a publisher provides a service to registered service subscribers upon a trigger event. That is, before usage a subscription to the service must occur.]; **and**
tracking a usage of the registered datatype [0591, tracks amount of resources used].

Claim 2:

The method of claim 1, wherein the usage includes when the datatype is accessed [0591, usage of subscription is taken into account of published service.].

Claim 3:

The method of claim 1, wherein the usage includes when the datatype is published [0591, usage of subscription is taken into account of published service.].

Claim 4:

The method of claim 1, wherein the usage includes a recipient of the datatype when the datatype is published [0591, subscriber connected device use of published service.].

Claim 5:

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The method of claim 1, wherein the usage includes a publisher of the datatype when the datatype is published [0055, Connected device can be a subscriber and a publisher. 0591 subscriber connected device use of published service.].

Claim 6:

The method of claim 1, wherein the usage includes a processing result of a processor that performs a processing using the datatype [0350, processing usage].

Claim 7:

The method of claim 1, further comprising the step of: using the usage to solve a problem related to the customer [0464, user (i.e. can be a customer) queries and system executes and runs a custom service for the user.].

Claim 8:

Claim 8 contains similar limitations to claim 1 and is therefore rejected under similar grounds of rejection.

Claim 9:

Claim 9 contains similar limitations to claim 2 and is therefore rejected under similar grounds of rejection.

Claim 10:

Claim 10 contains similar limitations to claim 3 and is therefore rejected under similar grounds of rejection.

Claim 11:

Claim 11 contains similar limitations to claim 4 and is therefore rejected under similar grounds of rejection.

Claim 12:

Claim 12 contains similar limitations to claim 5 and is therefore rejected under similar grounds of rejection.

Claim 13:

Claim 13 contains similar limitations to claim 6 and is therefore rejected under similar grounds of rejection.

Claim 14:

Claim 14 contains similar limitations to claim 7 and is therefore rejected under similar grounds of rejection.

Claim 15:

Claim 15 contains similar limitations to claim 1 and is therefore rejected under similar grounds of rejection.

Claim 16:

Claim 16 contains similar limitations to claim 1 and is therefore rejected under similar grounds of rejection.

Response to Arguments

Applicant's arguments filed 8/8/06 have been fully considered but they are not persuasive. Applicant's have asserted the following (numbered):

1. That the Devine fails to disclose or suggest asynchronously receiving data and then providing a datatype that has metadata that describes the asynchronously received data and a reference to the data. Further stating because Devine fails to disclose asynchronously receiving data that Devine further does not teach data about a customer.

In response, the examiner respectfully disagrees with Applicant's assertions.

The Devine reference states the following:

0451, "Asynchronous services are added when the subscriber is next on line.

Asynchronous services communicate using a messaging mechanism functionality provided by the system. Messages are self-contained and can include a variety of types of data including files, charts, reports, spreadsheets, etc."

0002, "System and methods for providing automatic data retrieval, analysis, and reporting (RAR) services to interconnected desktops and mobile computer users wherein the provision and receipt of the RAR services does not depend on central administration or processing."

0007, that "the analytical and messaging functionality found in ERP, MES and other so called enterprise scale computer systems is generally limited in scope to what the vendor of such a system anticipates his typical customer may require."

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The argued claim limitation states “asynchronously receiving data about a customer”. That is to say, with respect to the Devine reference, asynchronous services (data) are added (received) when the subscriber (customer) is next on line (i.e. asynchronously receiving data about a customer) discloses the recited limitation.

The Devine reference further states:

0018, “The number of publishers, subscribers, services, and subscriptions may thus be very large. In response to a connected device applying to a publisher connected device for a subscription, the publisher connected device may selectively grant the subscription based on some criteria or it may grant the subscription automatically”

0019, “The analysis of data is carried out automatically using procedures specified by the publisher of a service and then reported to subscribers upon trigger events specified by the publisher and/or by subscribers.”

The next argued limitation states “providing a datatype having metadata that describes the data and a reference to the data, the data being maintained separately from the datatype.” According to the Devine reference, a subscription (i.e. datatype) containing specified criteria (metadata and reference to a service) is used in order to obtain the correct service (data). Hence, Devine suggests the recited limitation.

In summary, Applicant’s assertions that Devine fails to disclose or suggest asynchronously receiving data and then providing a datatype that has metadata that describes the

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asynchronously received data and a reference to the data; and because Devine fails to disclose asynchronously receiving data that Devine further does not teach data about a customer, and that Devine does not even mention customer are unpersuasive over the cited reference. Devine's system asynchronously provides a service (data) to subscribers (customer) of a subscription (datatype), wherein the subscriptions contain specified criteria (metadata) that references and describes the service (data). According to the subscription that the subscriber subscribes to, a service is provided.

2. Examiner later contradicts himself and equates Devine's service to the data.

The examiner appreciates Applicant's careful review of the Office Action. However, asynchronously receiving a service (such as a report, spreadsheet, etc.) is data. According to Applicant's response page 12, the Applicant has equated the service to a datatype. However, the examiner does not equate the service to the datatype. The parenthesis was to help in mapping the claim elements to the reference. There was a misprint of the first use of subscription (page 6 line 2) which was meant to have been the word data.

In any case, the arguments do not overcome the cited reference. Therefore, the rejection under 35 U.S.C. 102 by the Devine reference is maintained.

3. Nowhere does Devine mention data about a customer.

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Devine discloses that the system provides automatic data retrieval, analysis, and reporting services, 0002. Devine further states that prior systems such as ERP systems are used to provide means of entering, manipulating, and viewing records relating to many aspects of a complex organization, 0005. Devine also discloses that prior systems such as ERP and MES typically provide retrieval, analysis, and reporting services; however ERP, MES, and other prior systems are limited in scope to what the vendor of such a system anticipates his intended typical customer may require, 0007. Therefore, Devine suggests that the data is about the customer because the service provided contains organizational information.

Conclusion

The prior art made of record listed on PTO-892 and not relied upon, if any, is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. Pham whose telephone number is (571)272-3924. The examiner can normally be reached on Monday - Friday 9am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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